

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of: Knut Haber-Land-SCHLOSSER <i>et al.</i>	Confirmation No.: 8742
Application No.: 10/517,018	Group Art Unit: 2453
Filed: July 25, 2005	Examiner: Kim, Tae K.

For: METHOD AND DEVICE FOR GENERATING A MOBILE HOMEPAGE IN
ACCORDANCE WITH CONTEXT RELATED INFORMATION

Commissioner for Patents
Alexandria, VA 22313-1450

APPEAL BRIEF

Dear Sir:

This Appeal Brief is submitted in support of the Notice of Appeal dated October 2, 2009.

I. REAL PARTY IN INTEREST

The real party in interest is Nokia Corporation, a corporation organized under the laws of Finland and having a place of business at Keilalahdentie 4, FIN-02150 Espoo, Finland. The above referenced patent application is assigned to Nokia Corporation.

II. RELATED APPEALS AND INTERFERENCES

Appellants are unaware of any related appeals and interferences.

III. STATUS OF THE CLAIMS

Claims 1-11, 13-14, 16, 19-22, 26 are pending in this appeal, in which claims 12, 15, 17, 18, 23, 24 have earlier been canceled. No claim is allowed. This appeal is therefore taken from the final rejection of claims 1-11, 13-14, 16, 19-22, 25, and 26 on August 4, 2009.

IV. STATUS OF AMENDMENTS

The amendment to claims 1, 2, 6, 19, 20, and 26 filed June 22, 2009 has been entered.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

The claimed invention addresses problems associated with mobile terminal devices. In particular, the claimed invention provides for a dynamic generation of a mobile homepage. In embodiments to which the two independent claims on appeal are directed, the mobile homepage can be generated in accordance with information such as position information, signal strength information, time information, or information related to environmental conditions of the mobile terminal on which the mobile homepage is stored. Actual weather conditions such as temperature, atmospheric pressure, and humidity at the location of the mobile terminal may be stored as information on the mobile homepage.

Independent claim 1 recites:

1. A method, comprising:

automatically determining information about environmental conditions indicating actual weather conditions of a location of a mobile telephone device (See, e.g., Specification, page 3, lines 7-14; page 10, lines 20-22; Fig. 3, processor 40), and automatically adapting a mobile homepage in accordance with said determined information (See, e.g., Specification, page 3, lines

7-14; page 6, line 34-page 7, line 4; Fig. 3, processor 40) about said environmental conditions indicating actual weather conditions of the location of said mobile telephone device (See, e.g., Specification, page 3, lines 7-14; page 10, lines 20-22; Fig. 3, processor 40).

Independent claim 19 recites:

19. A mobile telephone device, comprising:

a server that provides a server functionality to said mobile telephone device (See, e.g., Specification, page 12, lines 5-13; Fig. 3, server 38),

a storage for storing at least one homepage on said mobile telephone device (See, e.g., Specification, page 12, lines 5-13; Fig. 3, storage 36), and a processor (See, e.g., Specification, page 12, lines 5-13; Fig. 3, processor 40) configured to determine information about environmental conditions indicating actual weather conditions of a location of said mobile telephone device (See, e.g., Specification, page 3, lines 7-14; page 10, lines 20-22; Fig. 3, processor 40), and to adapt said homepage according to said determined information about said environmental conditions indicating actual weather conditions of the location of said mobile telephone device (See, e.g., Specification, page 3, lines 7-14; page 6, line 34-page 7, line 4; page 10, lines 20-22; Fig. 3, processor 40).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-8, 11, 19-21, 25, and 26 were rejected for obviousness under 35 U.S.C. § 103(a) based on *Kehr et al.* ("Look Ma', My Homepage is Mobile") in view of *Schwoegler* (US 2001/0030624).

Claims 9 and 10 were rejected for obviousness under 35 U.S.C. § 103(a) based on *Kehr et al.* ("Look Ma', My Homepage is Mobile") and *Schwoegler* (US 2001/0030624) in view of *Nagaoka et al.* (US 2002/0180579).

Claims 11 and 22 were rejected for obviousness under 35 U.S.C. § 103(a) based on *Kehr et al.* ("Look Ma', My Homepage is Mobile") and *Schwoegler* (US 2001/0030624) in view of *Kanevsky et al.* (US 6,496,949).

Claims 13 was rejected for obviousness under 35 U.S.C. § 103(a) based on *Kehr et al.* ("Look Ma', My Homepage is Mobile") and *Schwoegler* (US 2001/0030624) in view of *Largman et al.* (US 2002/0188887).

Claims 14 and 16 were rejected for obviousness under 35 U.S.C. § 103(a) based on *Kehr et al.* ("Look Ma', My Homepage is Mobile") and *Schwoegler* (US 2001/0030624) in view of *Venkatraman et al.* (US 5,956,487).

VII. ARGUMENT

A. **CLAIMS 1-8, 11, 19-21, 25, AND 26 ARE NOT RENDERED OBVIOUS BY KEHR ET AL. AND SCHWOEGLER BECAUSE NEITHER REFERENCE DISCLOSES OR SUGGESTS DETERMINING INFORMATION ABOUT ACTUAL WEATHER CONDITIONS OF THE LOCATION OF THE MOBILE TELEPHONE DEVICE.**

The initial burden of establishing a *prima facie* basis to deny patentability to a claimed invention under any statutory provision always rests upon the Examiner. *In re Mayne*, 104 F.3d 1339, 41 USPQ2d 1451 (Fed. Cir. 1997); *In re Deuel*, 51 F.3d 1552, 34 USPQ2d 1210 (Fed. Cir. 1995); *In re Bell*, 991 F.2d 781, 26 USPQ2d 1529 (Fed. Cir. 1993); *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In rejecting a claim under 35 U.S.C. § 103, the Examiner is

required to provide a factual basis to support the obviousness conclusion. *In re Warner*, 379 F.2d 1011, 154 USPQ 173 (CCPA 1967); *In re Lunsford*, 357 F.2d 385, 148 USPQ 721 (CCPA 1966); *In re Freed*, 425 F.2d 785, 165 USPQ 570 (CCPA 1970).

Independent claim 1 recites “**automatically determining** information about environmental conditions indicating **actual weather conditions of a location of a mobile telephone device**, and **automatically adapting a mobile homepage in accordance with said determined information** about said environmental conditions indicating actual weather conditions of the location of said mobile telephone device.” Similarly, independent claim 19 recites “a server that provides a **server functionality to said mobile telephone device**, a storage for storing at least one homepage on said mobile telephone device, and a processor configured to **determine information about environmental conditions indicating actual weather conditions of a location of said mobile telephone device**, and to **adapt said homepage according to said determined information** about said environmental conditions indicating actual weather conditions of the location of said mobile telephone device.”

Thus, in accordance with the instant claimed subject matter, there must be an automatic determination of actual weather conditions of a location of a mobile telephone device and there must be an automatic adaptation of a mobile homepage in accordance with that determined information.

The Final Office Action of August 4, 2009 recognized that *Kehr et al.* fails to disclose or suggest that environmental conditions indicate “actual weather conditions of a location of a mobile telephone device” and turned to *Schwoegler* to provide for such a teaching. However, *Schwoegler* discloses only an individualized, location-specific weather forecasting service that can provide weather forecasts to a mobile terminal over the Internet (via email) or via satellite.

As would have been understood by those of ordinary skill in the art, such forecasts as disclosed in *Schwoegler* must, of necessity, be downloaded to the mobile terminal from the weather forecasting service.

Contrary to the teachings of *Schwoegler*, the instant claimed subject matter does not require downloading of information in order to determine weather conditions at the location of the mobile telephone device because the claimed mobile telephone “automatically” determines information about environmental conditions indicating “actual” weather conditions at the location of the mobile telephone. Since there is an “automatic” determination, no downloading is necessary. Implicitly, the claimed mobile telephone comprises elements capable of sensing the environment in which the mobile telephone is located and consequently determines the “actual” weather conditions **at that location**, rather than a general weather forecast for the general area downloaded from the Internet, as in *Schwoegler*.

At page 3 of the Final Office Action, the Examiner asserted that the claims contain no language indicative of sensing the environment in which the device is located to determine actual weather conditions for the location of the device. While the claim language does not explicitly recite a sensing of the environment by the mobile telephone, the recitation of “**automatically determining** information about environmental conditions indicating **actual weather conditions of a location of a mobile telephone device**, and **automatically adapting a mobile homepage in accordance with said determined information** about said environmental conditions indicating actual weather conditions of the location of said mobile telephone device” implicitly requires such a sensing of the environment (“**automatically determining** information about environmental conditions”) and that it be performed at the location of the mobile telephone (“indicating actual weather conditions **of a location of a mobile telephone device**”). The

indication of **“actual”** weather conditions is clearly indicative of some type of measurement, or sensing, at the location of the mobile telephone device. If not sensed at that location, the weather conditions would not be **“actual,”** as claimed.

The Examiner asserted, at page 3 of the Final Office Action, that the cited portion of the instant disclosure, particularly page 10, lines 20-22, does not support Appellants’ position. Appellants disagree. As that portion recites “[m]ore sophisticated mobile terminal devices may further add information about the location of the mobile phone, or can comprise information about the environment like temperature, humidity and atmospheric pressure,” It should be clear, and would have been so understood by those of ordinary skill in the art, that if the mobile terminal devices **themselves**, **“add information about the location”** of the mobile terminal, such information including such conditions as “temperature, humidity, and atmospheric pressure,” then the mobile terminal devices must be sensing such information at that location. Temperature, humidity, and atmospheric pressure constitute “weather conditions” that are sensed and indicated at the location of the mobile terminal.

At page 4 of the Final Office Action, the Examiner asserted that Appellants’ argument concerning no need to download weather information to the mobile telephone is unpersuasive since the claims “do not contain language specifying such a limitation.” Appellants disagree.

The claimed features of **“automatically determining** information about environmental conditions indicating **actual weather conditions of a location of a mobile telephone device, and automatically adapting a mobile homepage in accordance with said determined information”** imply no need to download the information from another location because the information is automatically determined, indicating weather conditions at the location of the device. If a request for downloading the information had to be made, the determination would

not be “automatic” and the information downloaded would not be indicative of the “actual” weather conditions right at the location of the mobile device.

For the reason *supra*, the combination of *Kehr et al.* and *Schwogler* fails to disclose or suggest **“automatically determining information about environmental conditions indicating actual weather conditions of a location of a mobile telephone device, and automatically adapting a mobile homepage in accordance with said determined information about said environmental conditions indicating actual weather conditions of the location of said mobile telephone device,”** as in independent claim 1, or similar language in independent claim 19.

Independent claim 19 comprises features that distinguish over the combination of *Kehr et al.* and *Schwogler* even more strongly. Claim 19 includes language relating to the mobile telephone device comprising “a server that provides a **server functionality to said mobile telephone device**, a storage for storing at least one homepage on said mobile telephone device, and a processor configured to **determine information about environmental conditions indicating actual weather conditions of a location of said mobile telephone device**, and to **adapt said homepage according to said determined information** about said environmental conditions indicating actual weather conditions of the location of said mobile telephone device.” Since the mobile telephone device is specifically recited as comprising the server, the storage and the processor, wherein the processor is “configured to determine information about environmental conditions indicating actual weather conditions of a location of said mobile telephone device,” it would have been clear to those of ordinary skill in the art that no downloading of the information from the Internet, as in *Schwogler*, for example, is necessary because **the processor in the mobile telephone device itself determines the information about the environmental conditions at the location of the device.** The applied references simply do

not disclose or suggest a mobile telephone device, as recited in claim 19, that is self-contained, having the server, the storage, and the processor for sensing environmental conditions at the location of the mobile telephone device, with no input from any other source.

Therefore, the imposed rejection of claims 1-8, 11, 19-21, 25, and 26 under 35 U.S.C. § 103(a) is neither legally nor factually viable and reversal of this rejection by the Honorable Board is respectfully solicited.

B. CLAIMS 9 AND 10 ARE NOT RENDERED OBVIOUS BY *KEHR ET AL.*, *SCHWÖGLER*, AND *NAGAOKA ET AL.* BECAUSE *NAGAOKA ET AL.* FAILS TO CURE THE DEFICIENCIES OF THE OTHER TWO REFERENCES.

Nagaoka et al., applied by the Examiner for an alleged teaching of the use of stored communication capacity information to determine how to display a requested service on a mobile device, fails to cure the deficiencies of *Kehr et al.* and *Schwöegler* since *Nagaoka et al.* also does not disclose or suggest the features of independent claims 1 and 19 regarding “**automatically determining** information about environmental conditions indicating **actual weather conditions of a location of a mobile telephone device**, and **automatically adapting a mobile homepage in accordance with said determined information** about said environmental conditions indicating actual weather conditions of the location of said mobile telephone device” and/or “a server that provides a **server functionality to said mobile telephone device**, a storage for storing at least one homepage on said mobile telephone device, and a processor configured to **determine information about environmental conditions indicating actual weather conditions of a location of said mobile telephone device**, and to **adapt said homepage according to said determined information** about said environmental conditions indicating actual weather

conditions of the location of said mobile telephone device.”

Therefore, the imposed rejection of claims 9 and 10 under 35 U.S.C. § 103(a) is neither legally nor factually viable and reversal of this rejection by the Honorable Board is respectfully solicited.

C. CLAIMS 11 AND 22 ARE NOT RENDERED OBVIOUS BY *KEHR ET AL.*, *SCHWOEGLER*, AND *KANEVSKY ET AL.* BECAUSE *KANEVSKY ET AL.* FAILS TO CURE THE DEFICIENCIES OF THE OTHER TWO REFERENCES.

Kanevsky et al., employed by the Examiner for an alleged teaching of an emergency data back-up system when an emergency condition is detected, fails to cure the deficiencies of *Kehr et al.* and *Schwoegler* since *Kanevsky et al.* also does not disclose or suggest the features of independent claims 1 and 19 regarding “**automatically determining** information about environmental conditions indicating **actual weather conditions of a location of a mobile telephone device**, and **automatically adapting a mobile homepage in accordance with said determined information** about said environmental conditions indicating actual weather conditions of the location of said mobile telephone device” and/or “a server that provides a **server functionality to said mobile telephone device**, a storage for storing at least one homepage on said mobile telephone device, and a processor configured to **determine information about environmental conditions indicating actual weather conditions of a location of said mobile telephone device**, and to **adapt said homepage according to said determined information** about said environmental conditions indicating actual weather conditions of the location of said mobile telephone device.”

Therefore, the imposed rejection of claims 11 and 22 under 35 U.S.C. § 103(a) is neither

legally nor factually viable and reversal of this rejection by the Honorable Board is respectfully solicited.

D. CLAIM 13 IS NOT RENDERED OBVIOUS BY *KEHR ET AL.*, *SCHWOEGLER*, AND *LARGMAN ET AL.* BECAUSE *LARGMAN ET AL.* FAILS TO CURE THE DEFICIENCIES OF THE OTHER TWO REFERENCES.

Largman et al., employed by the Examiner for an alleged teaching of an emergency startup system that switches to a separate data storing device within the system when the primary device is not available, fails to cure the deficiencies of *Kehr et al.* and *Schwogler* since *Largman et al.* also does not disclose or suggest the features of independent claims 1 and 19 regarding “**automatically determining** information about environmental conditions indicating **actual weather conditions of a location of a mobile telephone device**, and **automatically adapting a mobile homepage in accordance with said determined information** about said environmental conditions indicating actual weather conditions of the location of said mobile telephone device” and/or “a server that provides a **server functionality to said mobile telephone device**, a storage for storing at least one homepage on said mobile telephone device, and a processor configured to **determine information about environmental conditions indicating actual weather conditions of a location of said mobile telephone device**, and to **adapt said homepage according to said determined information** about said environmental conditions indicating actual weather conditions of the location of said mobile telephone device.”

Therefore, the imposed rejection of claim 13 under 35 U.S.C. § 103(a) is neither legally nor factually viable and reversal of this rejection by the Honorable Board is respectfully solicited.

E. CLAIMS 14 AND 16 ARE NOT RENDERED OBVIOUS BY KEHR ET AL., SCHWOEGLER, AND VENKATRAMAN ET AL. BECAUSE VENKATRAMAN ET AL. FAILS TO CURE THE DEFICIENCIES OF THE OTHER TWO REFERENCES.

Venkatraman et al., employed by the Examiner for an alleged teaching of using HTML to create a webpage, fails to cure the deficiencies of *Kehr et al.* and *Schwoegler* since *Venkatraman et al.* also does not disclose or suggest the features of independent claims 1 and 19 regarding “**automatically determining** information about environmental conditions indicating **actual weather conditions of a location of a mobile telephone device**, and **automatically adapting a mobile homepage in accordance with said determined information** about said environmental conditions indicating actual weather conditions of the location of said mobile telephone device” and/or “a server that provides a **server functionality to said mobile telephone device**, a storage for storing at least one homepage on said mobile telephone device, and a processor configured to **determine information about environmental conditions indicating actual weather conditions of a location of said mobile telephone device**, and to **adapt said homepage according to said determined information** about said environmental conditions indicating actual weather conditions of the location of said mobile telephone device.”

Therefore, the imposed rejection of claims 14 and 16 under 35 U.S.C. § 103(a) is neither legally nor factually viable and reversal of this rejection by the Honorable Board is respectfully solicited.

VIII. CONCLUSION AND PRAYER FOR RELIEF

For the foregoing reasons, Appellants request the Honorable Board to reverse each of the Examiner's rejections.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 504213 and please credit any excess fees to such deposit account.

Respectfully Submitted,

DITTHAVONG MORI & STEINER, P.C.

February 26, 2010
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IX. CLAIMS APPENDIX

1. A method, comprising:

automatically determining information about environmental conditions indicating actual weather conditions of a location of a mobile telephone device, and automatically adapting a mobile homepage in accordance with said determined information about said environmental conditions indicating actual weather conditions of the location of said mobile telephone device.

2. The method according to claim 1, further comprising evaluating said determined information about said environmental conditions indicating actual weather conditions of the location of said mobile telephone device with regard to different information about said environmental conditions indicating actual weather conditions of the location of said mobile telephone device and adapting said mobile homepage in accordance with a result of said evaluation operation.

3. The method according to claim 1, further comprising dispatching a communication request.

4. The method according to claim 1, further comprising receiving a communication request.

5. The method according to claim 3, wherein said communication request is a multimedia call.

6. The method according to claim 1, wherein said information about said environmental conditions of the location of said mobile telephone device also comprises communication properties.

7. The method according to claim 1, further comprising transmitting of said generated mobile homepage.

8. The method according to claim 1, further comprising receiving an identification of the originator of a communication attempt.

9. The method according to claim 6, wherein said communication properties comprise information about a communication connection of said mobile telephone device.

10. The method according to claim 6, wherein said communication properties comprise information according to a communicative state of said mobile telephone device.

11. The method according to claim 1, comprising
downloading contents of said mobile homepage of said mobile telephone device,
storing said downloaded mobile homepage on a server, said server containing a homepage,
thereby automatically updating said homepage on said server according to said mobile
homepage of said mobile telephone device, wherein said downloading is initiated when it
is detected that the attainability of the mobile telephone is expected to be reduced.

12. (Canceled)

13. The method according to claim 1, comprising receiving a communication request for a connection to said mobile device, detecting if said mobile device is connectable, and
in case said mobile device is not connectable, rerouting said communication request to a homepage downloaded from said mobile telephone device said communication request has been directed to.

14. The method according to claim 1, wherein said homepage is a hypertext markup language homepage, and extensible hypertext markup language homepage, or a wireless markup language homepage.

15. (Canceled)

16. A computer readable storage medium encoded with a computer program comprising program code for carrying out the method of claim 1 when said program is run on a network device, a computer or a mobile telephone device.

17. (Canceled)

18. (Canceled)

19. A mobile telephone device, comprising:

a server that provides a server functionality to said mobile telephone device,

a storage for storing at least one homepage on said mobile telephone device, and a processor configured to determine information about environmental conditions indicating actual weather conditions of a location of said mobile telephone device, and to adapt said homepage according to said determined information about said environmental conditions indicating actual weather conditions of the location of said mobile telephone device.

20. The mobile telephone device according to claim 19, further comprising at least one component for evaluating said information about said environmental conditions with regard to different information about said environmental conditions of the location of said mobile telephone device.

21. The mobile telephone device according to claim 19, further comprising

a processor configured to connect said mobile telephone to a server, and configured to transfer the contents of a mobile homepage of said mobile telephone device to said server.

22. The mobile telephone device according to claim 21, further comprising a processor configured to detect an attainability status of said mobile telephone device and to initiate said transfer of the mobile homepage contents, in case a decreased attainability status is detected.

23. (Canceled)

24. (Canceled)

25. The method according to claim 1, wherein said automatically determining information about environmental conditions further comprises automatically determining position information about said mobile telephone device.

26. The mobile telephone device according to claim 19, wherein said environmental conditions of the location of said mobile telephone device further includes position information of said mobile telephone device and wherein said processor is further configured to determine said position information about said mobile telephone device.

X. EVIDENCE APPENDIX

Appellants are unaware of any evidence that is required to be submitted in the present Evidence Appendix.

XI. RELATED PROCEEDINGS APPENDIX

Appellants are unaware of any related proceedings that are required to be submitted in the present Related Proceedings Appendix.